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FILED VIA ECF

Hon. P. Kevin Castel
United States District Judge
United States Courthouse
Southern District of New York
500 Pearl Street
New York, New York 10007

January 19, 2022

United States v. Mauricio HERNANDEZ-PINEDA
(S5) 15 Cr. 379 (PKC)

Dear Judge Castel:

As counsel of record for Mr. Hernandez-Pineda, I am writing to request an adjournment of the next conference in this matter, currently scheduled for January 25, 2022, for another sixty (60) days. I have discussed this with the government, which advises that it takes no position.

Again, the primary reason for the request is to allow the parties to continue active plea discussions that would obviate the need for trial. These discussions are still ongoing.

I am also still continuing to review the voluminous discovery in this matter with my client, and obtaining Spanish-language translations of documents that Mr. Hernandez-Pineda is in the process of identifying.

I am also still in the process of trying to obtain certain documents in Honduras to assist in my client's defense. Once received, they too will have to be translated.

As the Court no doubt will understand, my ability to do any of this has been greatly hindered by the surge of the Omicron variant as part of the ongoing COVID-19 global pandemic. This was not a factor when the Court granted the last adjournment in early November 2021 and is the other reason for this request.

As a result of Omicron infections, Essex County Jail, where Mr. Hernandez-Pineda is housed, suspended all legal visits almost one month ago. There is no certainty as to when such visits can resume.

Also, in granting the last request in early November, the Court directed the parties to appear in person on January 25. However, Mr. Hernandez-Pineda has advised me that numerous other inmates on his unit have tested positive for COVID, which has led to the unit being placed on lockdown on various occasions. He himself contracted COVID early in the pandemic while he was still at the MCC. Although now vaccinated, he is understandably concerned about contracting the virus again. So-called "breakthrough cases" of people becoming infected with the far more, highly transmissible Omicron variant have been widely reported. Accordingly, there is a concern that he himself might also be positive but asymptomatic. Thus, there does seem to be also an inherent risk to the health of others, such as the Marshals and court staff, as well as to Mr. Hernandez-Pineda, if the conference were to proceed at this time.

Finally with regard to Omicron, going forward on January 25 would place the additional burden on Mr. Hernandez-Pineda of being compelled to quarantine for at least ten (10) days upon his return to Essex County. This would also have the unintended consequence of further extending my inability to meet with him, assuming that the moratorium on legal visits were lifted in the interim.

For these reasons, we ask that the conference in this matter, currently scheduled for January 25, 2022, be adjourned for sixty (60) days. We would have no objection to an exclusion under the Speedy Trial clock in these circumstances.

If the request to adjourn is granted, we ask the Court to also allow the conference to proceed virtually. This would alleviate many if not most of the concerns expressed above.

We thank the Court for its kind consideration of these matters.

Respectfully submitted,

/s/

HOWARD LEADER

cc: Jason A. Richman, Esq.
Elinor Tarlow, Esq.
Jacob H. Gutwillig, Esq., Assistant United States Attorneys (VIA ECF)